

## **TAB D**

1 Volume: I  
2 Pages: 1 - 236  
3 Exhibits: 32 - 38

9 CASAS, BENJAMIN & WHITE, LLC.,

.0 Plaintiff,

11

12

vs.

14 THE POINTE GROUP, INC., GERALD S. FREID; BARRY  
15 FREID; KEY CORPORATE CAPITAL, INC.,  
16 Defendants.

REPOSITION OF GERALD S. FRADIS

19 March 8, 2005 - 10:35 a.m.

20 Conn, Kavanaugh, Rosenthal, Peisch & Ford

21 10 Post Office Square

22 Boston, Massachusetts

24           Reporter: Donna J. Whitcomb, CSR/RPR/RMR

Gerald S. Freid

03/09/05

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1 APPEARANCES:		1 PROCEEDINGS	
2		2 GERALD S. FREID, after having been	
3 CONN, KAVANAUGH, ROSENTHAL, PEISCH & FORD		3 satisfactorily identified was duly sworn by the	
4 By Erin K. Higgins, Esquire		4 Notary Public that his testimony would be the truth,	
5 10 Post Office Square		5 the whole truth, and nothing but the truth,	
6 Boston, Massachusetts 02109		6 testified as follows in answer to direct	
7 (617) 482-8200		7 interrogatories by Ms. Higgins:	
8 On behalf of the Plaintiff.		8 Q. Sir, could you please state your full name	
9		9 for the record including your middle name?	
10 GORDON HALEY, LLP		10 A. Gerald Steven Freid.	
11 By Stephen F. Gordon, Esquire		11 Q. Steven with a "V" or "P-H"?	
12 101 Federal Street		12 A. "V."	
13 Boston, Massachusetts 02110		13 Q. And your date of birth?	
14 (617) 261-0100		14 A. 2/11/58.	
15 On behalf of The Pointe Group, Inc.		15 Q. Where do you live, sir?	
16		16 A. 47 William Street, Needham, 02494.	
17 NIXON PEABODY, LLP		17 Q. Who do you live there with?	
18 By W. Scott O'Connell, Esquire		18 A. My wife and two children.	
19 100 Summer Street		19 Q. What is your wife's name?	
20 Boston, Massachusetts 02110		20 A. Kim.	
21 (617) 345-1000		21 Q. Freid?	
22 On behalf of Key Corporate Capital, Inc.		22 A. Yes.	
23		23 Q. And your children's names?	
24		24 A. Older one is Jared. He goes to college so	
	Page 3		Page 5
1 INDEX	PAGE	1 he's home half the year. He's 20. And Harry is 16.	
2 EXAMINATION OF:	PAGE	2 Q. How long have you lived at that address?	
3 GERALD FREID		3 A. 20 years.	
4 By Ms. Higgins	4, 227	4 Q. Where do you work?	
5 By Mr. O'Connell	173	5 A. At The Pointe Group.	
6		6 Q. What is your position there?	
7 EXHIBITS	PAGE	7 A. I'm the treasurer.	
8 NO.	PAGE	8 Q. How long have you been the treasurer?	
9 32 Indemnification Letter, 9/14/03	56	9 A. About a year.	
10 Gerald Freid to CBW		10 Q. And The Pointe Group is located at the	
11 33 Letter with Attachments, 12/20/03	56	11 address that your brother gave us yesterday?	
12 CBW to Freid		12 A. Yes.	
13 34 E-mail, 8/31/04, Gordon to Kauffman	133	13 Q. And just to get this out of the way, do	
14 Re: Encroachment Problem		14 you have a business card?	
15 35 E-mail, Gordon to Kauffman, 9/17/04	134	15 A. I do.	
16 Re: Grand Jury Subpoena Objection Letter		16 Q. And does it identify you as the treasurer	
17 36 E-mail, 9/25/04, Gordon to Sucoff	135	17 at The Pointe Group?	
18 and Henken		18 A. It does.	
19 37 E-mail, Caine to Freid, 9/29	151	19 Q. What position did you hold before you	
20 38 E-mail, Cover Letter and	154	20 became treasurer?	
21 Closing Statement		21 A. I didn't have a position.	
22		22 Q. Okay, did you have a business card, did	
23		23 you carry a business card?	
24 *Original exhibits retained by Ms. Higgins.		24 A. No.	

2 (Pages 2 to 5)

Gerald S. Freid

03/09/05

1 sorts of massive confusion going on with thousands  
 2 of things being shoved in front of the people's  
 3 faces to have them sign.

4 And people running in and out of the  
 5 office making conferences left and right, and I  
 6 basically got dizzy watching it. So there was no  
 7 set this group was sitting here and this group was  
 8 sitting here. We were waiting for the okay so I  
 9 could take my mother home.

10 Q. Now, your mother I'm sure had to sign some  
 11 documents, correct?

12 A. Yes.

13 Q. And you said you were there holding her  
 14 hand, correct?

15 A. Yes.

16 Q. So were you sitting with her and looking  
 17 at documents that she was being asked to sign?

18 A. No.

19 Q. Was someone else doing that?

20 A. Yes.

21 Q. The attorneys?

22 A. Yes.

23 Q. Do you remember your mother asking whether  
 24 the brokers were going to be paid?

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1 Q. Did you have any discussions with Matt Caine  
 2 that day?

3 A. No, I did not.

4 Q. You didn't call Matt Caine and say you're  
 5 not getting paid?

6 A. I referred him to my attorney at that  
 7 point because...

8 Q. Okay, so he called you?

9 A. He could have called me and if I did pick  
 10 up the phone, I asked him to please call Steve  
 11 Gordon if he has any questions.

12 Q. How about after either the day of the  
 13 closing or after the closing; did you ever have any  
 14 conversations with Steve Dunham about CBW's fee?

15 A. He vanished; the last two weeks of the  
 16 sale.

17 MR. GORDON: I think the question was  
 18 after the closing; is that correct?

19 Q. Well, the day of or any time after did you  
 20 have any discussions with Steve Dunham --

21 A. No.

22 Q. -- about the fact that CBW wasn't paid out  
 23 of the sale proceeds?

24 A. No.

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1 A. Absolutely not.

2 Q. Do you remember John McCullough saying  
 3 anything about when or how the brokers would be  
 4 paid; not in a private conference with you but --

5 A. No.

6 Q. -- in the presence of other people?

7 A. There were no discussions.

8 Q. How did you learn that CBW wasn't paid out  
 9 of the proceeds?

10 A. I don't know. I don't know whether I -- I  
 11 certainly didn't see these papers. I don't know. I  
 12 saw it written down somewhere that there was -- I  
 13 can't put my hand on it. I don't know how -- I  
 14 don't know how I was informed. I don't know how I  
 15 knew. My brother might have told me. I can't  
 16 recollect or -- but when I found out I was shocked.

17 Q. Now, you knew you had signed the  
 18 engagement letter so you knew that The Pointe Group  
 19 had agreed to pay this fee, correct?

20 A. That's correct.

21 Q. So when you learned that CBW wasn't going  
 22 to be paid out of the sale proceeds, were you also  
 23 concerned about a liability to CBW?

24 A. I was certainly concerned, yes.

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1 Q. Mr. Freid, are you aware that The Pointe  
 2 Group has brought a counterclaim against Casas,  
 3 Benjamin & White in this case?

4 A. No.

5 Q. Are you aware of anything that CBW did or  
 6 failed to do that you consider to be a breach of its  
 7 fiduciary duties to The Pointe Group?

8 A. I don't know the law, no.

9 Q. Okay. Well, is there anything that you  
 10 could think of that you thought CBW did or failed to  
 11 do that you thought was detrimental to The Pointe  
 12 Group?

13 A. No.

14 Q. And is there anything that they did or  
 15 failed to do that you thought indicated that they  
 16 were aligned with Key Bank against The Pointe Group?

17 A. I think they were aligned with themselves  
 18 and whatever benefited them, whatever they thought  
 19 the right thing to do at the time, they did.

20 Whether it went back and forth, allegiances to one  
 21 side to another side or even to the buyer, but  
 22 that's -- I believe wherever -- they were as  
 23 brokers, as the real estate brokers, they were  
 24 involved with the buyer, the seller and the bank.